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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:4

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Date:

July 26, 2011

Legend

Parent =

FSub1 =

Sub1 =

Sub2 =

Sub3 =

Sub4 =

Month =

1

Date 2 =

b =

Dear _____ :

This letter responds to your letter dated May 10, 2011, in which you requested rulings regarding certain federal income tax consequences of a series of proposed transactions (collectively, the "Proposed Transaction"). The information submitted in that letter is summarized below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Summary of Facts

Parent wholly owns FSub1, and FSub1 wholly owns Sub1. Parent and FSub1 are foreign corporations. Sub1 is a domestic corporation. Sub1 is the common parent of an affiliated group of corporations that files a consolidated federal income tax return (the "Sub Group"), which includes Sub2, Sub3, and Sub4. Sub1 wholly owns Sub2, Sub2 in turn wholly owns Sub3, and Sub3 in turn wholly owns Sub4. Sub2, Sub3, and Sub4 are domestic corporations. During Month 1, in a transaction unrelated to the Proposed Transaction, Sub1 acquired all the stock of Sub2 from FSub1. On Date 2, in a transaction unrelated to the Proposed Transaction, Sub3 acquired all the stock of Sub4 from Sub2, (the "Sub4 Acquisition").

Prior to the Proposed Transaction, intercompany obligations exist between Sub3 and Sub2, Sub3 and other members of the Sub Group, and Sub2 and other members of the Sub Group. In particular, Sub3 holds a receivable that is due from Sub2 (the "Receivable"). Prior to the Proposed Transaction, the Receivable continually fluctuates in amount and is expected to account for approximately 5% of Sub3's gross assets based on fair market value. Additionally, Sub3 is the obligor on a series of intercompany notes due to Sub2 in the aggregate amount of approximately \$ (the "Debt").

Proposed Transaction

For what are represented to be valid business reasons, taxpayer intends to complete the Proposed Transaction as follows:

- (1) Sub3 will contribute the Receivable to Sub4 in constructive exchange for additional shares of Sub4 stock of equal value (the "Exchange").

- (2) Sub3 will convert by way of either (i) state law elective conversion into a U.S. limited liability company ("Sub3 LLC") that is disregarded as separate from Sub2 for federal income tax purposes or, alternatively, (ii) Sub2 forming Sub3 LLC as an entity disregarded as separate from Sub2 for federal income tax purposes and Sub3 will merge into Sub3 LLC with Sub3 LLC surviving (the "Sub3 Conversion").
- (3) Sub2 will convert into a limited liability company ("Sub2 LLC") that is disregarded as separate from Sub1 for federal income tax purposes (the "Sub2 Conversion" and together with the Sub3 Conversion, the "Conversions").

Representations

The following representations have been made with respect to matters preceding the Proposed Transaction:

- (a) The Receivable represents indebtedness for federal income tax purposes.
- (b) The Sub4 Acquisition served a business purpose unrelated to the Proposed Transaction, and it qualified as a section 351 exchange as well as a reorganization under section 368(a)(1)(B).
- (c) All amounts reflected as indebtedness on the balance sheets of Sub4, Sub3, Sub2 and Sub1 constitute indebtedness for federal income tax purposes.

The Exchange

The following representations have been made regarding the Exchange:

- (d) No Sub4 stock or securities will be issued (or deemed issued) for services rendered to or for the benefit of Sub4 in connection with the Exchange.
- (e) No Sub4 stock or securities will be issued (or deemed issued) for indebtedness of Sub4 that is not evidenced by a security or for interest on indebtedness of Sub4 which accrued on or after the beginning of the holding period of Sub3 for the debt.
- (f) The Exchange is not the result of the solicitation by a promoter, broker, or investment house.
- (g) Sub3 will not retain any rights in the Receivable transferred to Sub4.
- (h) The fair market value of the Sub4 stock deemed to be received by Sub3 in the Exchange will be equal to the fair market value of the Receivable transferred (*i.e.*, the face amount of the accounts receivable previously included in income less any amount of the reserve for bad debts).

- (i) Sub4 will not assume any liabilities, or acquire any property subject to any liabilities, pursuant to the Exchange (whether indebtedness or other forms of obligations, including contingent obligations) within the meaning of section 357(d).
- (j) There is no indebtedness between Sub4 and Sub3 and there will be no indebtedness created in favor of Sub3 in the Exchange.
- (k) The Exchange will occur pursuant to a plan agreed upon before the Exchange in which the rights of the parties are defined.
- (l) All exchanges pursuant to the Exchange shall occur on approximately the same date.
- (m) There is no plan or intention on the part of Sub4 to redeem or otherwise acquire any stock deemed to be issued in the Exchange.
- (n) Sub2 was the sole shareholder of Sub4 for the 12 month period ending with the Sub4 Acquisition, Sub3 will have been the sole shareholder of Sub4 since the Sub4 Acquisition, and taking into account all issuances of shares of Sub4 stock in connection with the Exchange, and all sales, exchanges, transfers by gift, or other dispositions of any Sub4 stock in connection with the Exchange, Sub3 (and Sub1 after the Conversions) will remain the sole shareholder of Sub4, and therefore be in "control" of Sub4 within the meaning of section 368(c), after the Exchange.
- (o) Sub3 will be deemed to receive stock of Sub4 approximately equal to the fair market value of the Receivable transferred in the Exchange.
- (p) Sub4 will remain in existence and plans to retain and use the Receivable transferred to it in a trade or business.
- (q) There is no plan or intention by Sub4 to dispose of the Receivable other than in the normal course of its business operations.
- (r) Each of Sub3 and Sub4 will pay its own expenses, if any, incurred in connection with the Exchange.
- (s) The Exchange will not result in "diversification" for purposes of section 351(e)(1), as provided in Treas. Reg. § 1.351-1(c).
- (t) Sub3 is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of section 368(a)(3)(A)) and the stock or securities received in the Exchange will not be used to satisfy indebtedness of Sub3.

- (u) Sub4 will not be a “personal service corporation” within the meaning of section 269A.
- (v) The total fair market value of the Receivable transferred by Sub3 to Sub4 will exceed the sum of (i) the amount of liabilities assumed (as determined under section 357(d)) by Sub4 in connection with the Exchange, (ii) the amount of liabilities owed to Sub4 by Sub3 that were discharged or extinguished in connection with the Exchange, and (iii) the amount of any money and the fair market value of any other property (other than stock permitted to be received under section 351(a) without recognition of gain) received by Sub3 in connection with the Exchange.
- (w) Immediately after the Exchange, the aggregate fair market value of the assets of Sub4 will exceed the sum of its liabilities (whether indebtedness or other forms of obligations, including contingent obligations), plus the liabilities, if any, to which assets of Sub4 are subject.
- (x) To the extent the Receivable is an intercompany obligation that will be transferred in the Exchange for federal income tax purposes, (i) the Exchange will not be engaged in with a view to shift items of built-in gain, loss, income, or deduction from the Receivable in order to secure a tax benefit that the Sub Group or its members would not otherwise enjoy in a consolidated or separate return year, and (ii) none of the Sub Group members is described in, or engaged in a transaction that is described in any of the following six circumstances: (a) neither Sub3 or Sub4 has a loss subject to limitation under Treas. Reg. § 1.1502-21(c) or Treas. Reg. § 1.1503(d)-4, but only if the other is not subject to a comparable limitation; (b) neither Sub3 or Sub4 has a special status under Treas. Reg. § 1.1502-13(c)(5) that the other does not also possess; (c) no Sub Group member excludes discharge of indebtedness from gross income under section 108(a) within the same taxable year as the Exchange, and no tax attributes attributable to either Sub3 or Sub4 are reduced under sections 108, 1017, and Treas. Reg. § 1.1502-28 (except if the attribute reduction results solely from the application of Treas. Reg. § 1.1502-28(a)(4)); (d) Sub4 has no nonmember shareholder; (e) Sub4 will not issue preferred stock to Sub3 in the Exchange; and (f) the stock of Sub4 (or a higher-tier member other than a higher-tier member of an 80% chain that includes Sub3 and Sub4) will not be disposed of within 12 months from the Exchange, unless at the time of the Exchange, Sub3, Sub4 and Sub2 are all in the same 80% chain, and all of the stock of Sub4 held by the Sub Group member is disposed of as part of the same plan or arrangement, either directly or indirectly, to persons that are not members of the Sub Group.
- (y) Sub3’s adjusted basis in the Receivable is approximately equal to its fair market value.

- (z) All transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to the Exchange or the Proposed Transaction have been fully disclosed.

Sub3 Conversion

The following representations have been made regarding the Sub3 Conversion:

- (aa) Sub3 and Sub2 will adopt a plan of elective conversion or merger (as applicable) under state law into a limited liability company (the “Sub3 Conversion Plan of Liquidation”), and the Sub3 Conversion will occur pursuant to the Sub3 Conversion Plan of Liquidation.
- (bb) Sub2, on the date of adoption of the Sub3 Conversion Plan of Liquidation (the “Sub3 Conversion Plan Date”), and at all times thereafter until the Sub3 Conversion is completed, will directly own all of Sub3’s single class of stock, and Sub3 has no (and will have no) outstanding warrants, options, convertible securities, or other obligations that may be classified as equity for federal income tax purposes.
- (cc) No shares of Sub3 stock have been redeemed during the three years preceding the Sub3 Conversion Plan Date, and no shares of Sub3 stock have been the subject of a prior intercompany recognition transaction under Treas. Reg. § 1.1502-13 (or its predecessor) or basis reduction under sections 108(b) and 1017 and Treas. Reg. § 1.1502-28.
- (dd) By operation of law, all transfers from Sub3 to Sub2 deemed to occur for federal income tax purposes will occur once the Sub3 Conversion is effective.
- (ee) Once the Sub3 Conversion is effective, Sub3 will cease to be a going concern, and it will cease to conduct any activities as a corporation, for federal income tax purposes.
- (ff) For federal income tax purposes, Sub3 will cease to exist as a corporation once the Sub3 Conversion is effective, and it will not retain any assets or engage in any activity following the Sub3 Conversion.
- (gg) Except for the Sub4 Acquisition, Sub3 will not have acquired assets in any nontaxable transaction at any time, except for acquisitions in the ordinary course of its business and acquisitions more than three years before the Sub3 Conversion Plan Date.
- (hh) Except for the Sub4 Acquisition, and a prior, unrelated Sub3 contribution of receivables to Sub4, no assets of Sub3 have been, or will be, disposed of by either Sub3 or Sub2, except for the Exchange, the Sub2 Conversion, dispositions

in the ordinary course of Sub3's business, and dispositions more than three years before the Sub3 Conversion Plan Date.

- (ii) Except for the Exchange, the Sub3 Conversion will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub3, if persons holding, directly or indirectly, more than 20% in value of the Sub3 stock (as determined by application of section 318(a) as modified by section 304(c)(3)) also hold, directly or indirectly, more than 20% in value of the stock in Recipient.
- (jj) Following the Sub3 Conversion, there is no plan or intention to undertake any action (e.g., an election to be treated as an association taxable as a corporation for federal income tax purposes under Treas. Reg. § 301.7701-3, etc.), and no other circumstances will exist (e.g., the existence of a second regarded owner of a member interest), that will prevent Sub3 LLC from being treated as disregarded from Sub2 (and Sub1 following the Sub2 Conversion) for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3.
- (kk) Prior to the Sub3 Conversion Plan Date, no assets of Sub3 will have been distributed in kind, transferred or sold to Sub2, except for (i) transactions in the ordinary course of business, and (ii) transactions more than three years before the Sub3 Conversion Plan Date.
- (ll) Sub3 will report all earned income represented by assets that will be treated as distributed to Sub2 for federal income tax purposes, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (mm) The fair market value of the assets of Sub3 will exceed its liabilities, both at the Sub3 Conversion Plan Date and immediately before the time the Sub3 Conversion is effective.
- (nn) The only intercompany debt that will exist between Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes) and Sub3 (or any entity disregarded as separate from Sub3 for federal income tax purposes) at the time the Sub3 Conversion is effective will be the Debt and possibly a relatively immaterial amount of debt that might accrue, under Sub2's normal business operations, between the Exchange and the Sub3 Conversion (the "Sub3 Gap Debt"). The Debt and the Sub3 Gap Debt will be extinguished for federal income tax purposes as a result of the Sub3 Conversion.
- (oo) No intercompany debt between Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes) and Sub3 (or any entity disregarded as separate from Sub3 for federal income tax purposes) will have been cancelled,

forgiven or discounted, except for transactions more than three years before the Sub3 Conversion Plan Date.

- (pp) Sub2 is not an organization that is exempt from federal income tax under section 501 or another provision of the Code.
- (qq) For any intercompany obligations that will be transferred in the Sub3 Conversion for federal income tax purposes, (i) the Sub3 Conversion will not be engaged in with a view to shift items of built-in gain, loss, income, or deduction from intercompany obligations in order to secure a tax benefit that the Sub Group or its member would not otherwise enjoy in a consolidated or separate return year, (ii) to the extent an intercompany obligation will be extinguished (*i.e.*, an obligation between Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes) and Sub3 (or any entity disregarded as separate from Sub3 for federal income tax purposes)), all of the rights and obligations under the intercompany obligation will be extinguished in an intercompany transaction under Treas. Reg. § 1.1502-13, all income and deduction amounts with respect to the obligation will have been taken into account before the Sub3 Conversion, the fair market value of the obligation will approximately equal the debtor's adjusted issue price in the obligation and the creditor's basis in the obligation, and the debtor's corresponding item and the creditor's intercompany item (after taking into account the special rules of Treas. Reg. § 1.1502-13(g)(4)(i)(C)) with respect to the obligation will offset in amount, and (iii) to the extent an intercompany obligation will not be extinguished (*i.e.*, an intercompany obligation not described in immediately preceding "(ii)"), the Sub3 Conversion will be an intercompany transaction under Treas. Reg. § 1.1502-13 in which no amount of income, gain, deduction or loss is recognized by the creditor or debtor.
- (rr) All transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to the Sub3 Conversion or the Proposed Transaction have been fully disclosed.

Sub2 Conversion

The following representations have been made regarding the Sub2 Conversion:

- (ss) Sub2 and Sub1 will adopt a plan of elective conversion under state law into a limited liability company (the "Sub2 Conversion Plan of Liquidation"), and the Sub2 Conversion will occur pursuant to the Sub2 Conversion Plan of Liquidation.
- (tt) Sub1, on the date of adoption of the Sub2 Conversion Plan of Liquidation ("the Sub2 Conversion Plan Date"), and at all times thereafter until the Sub2 Conversion is completed, will directly own all of Sub2's single class of stock, and Sub2 has no (and will have no) outstanding warrants, options, convertible

securities, or other obligations that may be classified as equity for federal income tax purposes.

- (uu) No shares of Sub2 stock have been redeemed during the three years preceding the Sub2 Conversion Plan Date, and no shares of Sub2 stock have been the subject of a prior intercompany recognition transaction under Treas. Reg. § 1.1502-13 (or its predecessor) or basis reduction under sections 108(b) and 1017 and Treas. Reg. § 1.1502-28.
- (vv) By operation of law, all transfers from Sub2 to Sub1 deemed to occur for federal income tax purposes will occur once the Sub2 Conversion is effective.
- (ww) Once the Sub2 Conversion is effective, Sub2 will cease to be a going concern, and it will cease to conduct any activities as a corporation, for federal income tax purposes.
- (xx) For federal income tax purposes, Sub2 will cease to exist as a corporation once the Sub2 Conversion is effective, and it will not retain any assets or engage in any activity following the Sub2 Conversion.
- (yy) Sub2 will not have acquired assets in any nontaxable transaction at any time, except for the Sub3 Conversion, acquisitions in the ordinary course of its business and acquisitions more than three years before the Sub2 Conversion Plan Date.
- (zz) Except for the Sub4 Acquisition, no assets of Sub2 have been, or will be, disposed of by either Sub2 or Sub1, except for dispositions in the ordinary course of Sub2's business, and dispositions more than three years before the Sub2 Conversion Plan Date.
- (aaa) The Sub2 Conversion will not be preceded or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub2, if persons holding, directly or indirectly, more than 20% in value of the Sub2 stock (as determined by application of section 318(a) as modified by section 304(c)(3)) also hold, directly or indirectly, more than 20% in value of the stock in Recipient.
- (bbb) Following the Sub2 Conversion, there is no plan or intention to undertake any action (e.g., an election to be treated as an association taxable as a corporation for federal income tax purposes under Treas. Reg. § 301.7701-3, etc.), and no other circumstances will exist (e.g., the existence of a second regarded owner of a member interest), that will prevent Sub2 LLC from being treated as disregarded from Sub1 for federal income tax purposes under Treas. Reg. §§ 301.7701-2 and 301.7701-3.

- (ccc) Prior to the Sub2 Conversion Plan Date, no assets of Sub2 will have been distributed in kind, transferred or sold to Sub1, except for (i) transactions in the ordinary course of business, and (ii) transactions more than three years before the Sub2 Conversion Plan Date.
- (ddd) Sub2 will report all earned income represented by assets that will be treated as distributed to Sub1 for federal income tax purposes, such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (eee) The fair market value of the assets of Sub2 will exceed its liabilities, both at the Sub2 Conversion Plan Date and immediately before the time the Sub2 Conversion is effective.
- (fff) The only intercompany debt that will exist between Sub1 (or any entity disregarded as separate from Sub1 for federal income tax purposes) and Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes) at the time the Sub2 Conversion is effective might be a relatively immaterial amount of debt that could accrue, under Sub2's normal business operations, up to the Sub2 Conversion (the "Sub1 Debt"). The Sub1 Debt will be extinguished for federal income tax purposes as a result of the Sub2 Conversion.
- (ggg) No intercompany debt between Sub1 (or any entity disregarded as separate from Sub1 for federal income tax purposes) and Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes) will have been cancelled, forgiven or discounted, except for transactions more than three years before the Sub2 Conversion Plan Date.
- (hhh) Sub1 is not an organization that is exempt from federal income tax under section 501 or another provision of the Code.
- (iii) For any intercompany obligations that will be transferred in the Sub2 Conversion for federal income tax purposes, (i) the Sub2 Conversion will not be engaged in with a view to shift items of built-in gain, loss, income, or deduction from intercompany obligations in order to secure a tax benefit that the Sub Group or its member would not otherwise enjoy in a consolidated or separate return year, (ii) to the extent an intercompany obligation will be extinguished (*i.e.*, an obligation between Sub1 (or any entity disregarded as separate from Sub1 for federal income tax purposes) and Sub2 (or any entity disregarded as separate from Sub2 for federal income tax purposes)), all of the rights and obligations under the intercompany obligation will be extinguished in an intercompany transaction under Treas. Reg. § 1.1502-13, all income and deduction amounts with respect to the obligation will have been taken into account before the Sub2 Conversion, the fair market value of the obligation will approximately equal the debtor's adjusted issue price in the obligation and the creditor's basis in the

obligation, and the debtor's corresponding item and the creditor's intercompany item (after taking into account the special rules of Treas. Reg. § 1.1502-13(g)(4)(i)(C)) with respect to the obligation will offset in amount, and (iii) to the extent an intercompany obligation will not be extinguished (*i.e.*, an intercompany obligation not described in immediately preceding "(ii)"), the Sub2 Conversion will be an intercompany transaction under Treas. Reg. § 1.1502-13 in which no amount of income, gain, deduction or loss is recognized by the creditor or debtor.

- (jjj) All transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to the Sub2 Conversion or the Proposed Transaction have been fully disclosed.

Rulings

The Exchange

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Exchange:

- (1) Sub3 will not recognize any gain or loss in the Exchange (section 351(a) and 357(a) and Treas. Reg. § 1.1502-13(g)(3)(i)(B)(1)).
- (2) Sub4 will not recognize any gain or loss in the Exchange (section 1032(a)).
- (3) Sub3 will adjust its basis in its Sub4 stock following the Exchange based on its basis in the Receivable contributed to Sub4 (section 358(a) and 358(d)(1) and Treas. Reg. § 1.1502-80(h)).
- (4) Sub4's basis in the Receivable received from Sub3 in the Exchange will equal Sub3's basis in the Receivable immediately before the Exchange (section 362(a) and Treas. Reg. § 1.1502-80(h)).
- (5) Sub4's holding period in the Receivable received from Sub3 in the Exchange will include the period during which Sub3 held it immediately before the Exchange (section 1223(2) and Treas. Reg. § 1.1502-13).

The Sub3 Conversion

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Sub3 Conversion:

- (6) The Sub3 Conversion will be treated as Sub3's distribution in complete liquidation under sections 332(a) and Treas. Reg. § 301.7701-3.

- (7) No gain or loss will be recognized by Sub2 on the deemed receipt of the assets and liabilities of Sub3 pursuant to the Sub3 Conversion (section 332(a)).
- (8) No gain or loss will be recognized by Sub3 on the deemed distribution of its assets and liabilities to Sub2 in the Sub3 Conversion (section 337(a) and Treas. Reg. § 1.1502-13(g)).
- (9) The basis of each Sub3 asset deemed received by Sub2 pursuant to the Sub3 Conversion will equal Sub3's basis immediately before the Sub3 Conversion (section 334(b)(1)).
- (10) The holding period of each Sub3 asset deemed received by Sub2 pursuant to the Sub3 Conversion will include Sub3's holding period immediately before the Sub3 Conversion (section 1223(2) and Treas. Reg. § 1.1502-13(c)).
- (11) Sub2 will succeed to and take into account the items of Sub3 described in section 381(c), subject to the conditions and limitations specified in sections 381 and the regulations thereunder (section 381(a)(1) and Treas. Reg. § 1.381(a)-1).
- (12) Except to the extent Sub3's earnings and profits are reflected in Sub2's earnings and profits, Sub2 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub3 as of the date of the Sub3 Conversion, and any deficit in the earnings and profits of Sub3 will be used only to offset earnings and profits accumulated after the date of the Sub3 Conversion (section 381(c)(2) and Treas. Reg. §§ 1.381(c)(2)-1, 1.1502-33(a)(2), 1.1502-80(a)(2)).

The Sub2 Conversion

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the Sub2 Conversion:

- (13) The Sub2 Conversion will be treated as Sub2's distribution in complete liquidation under sections 332(a) and Treas. Reg. § 301.7701-3.
- (14) No gain or loss will be recognized by Sub1 on the deemed receipt of the assets and liabilities of Sub2 pursuant to the Sub2 Conversion (section 332(a)).
- (15) No gain or loss will be recognized by Sub2 on the deemed distribution of its assets and liabilities to Sub1 in the Sub2 Conversion (section 337(a) and Treas. Reg. § 1.1502-13(g)).
- (16) The basis of each Sub2 asset deemed received by Sub1 pursuant to the Sub2 Conversion will equal Sub2's basis immediately before the Sub2 Conversion (section 334(b)(1)).

- (17) The holding period of each Sub2 asset deemed received by Sub1 pursuant to the Sub2 Conversion will include Sub2's holding period immediately before the Sub2 Conversion (section 1223(2) and Treas. Reg. § 1.1502-13(c)).
- (18) Sub1 will succeed to and take into account the items of Sub2 described in section 381(c), subject to the conditions and limitations specified in sections 381 and the regulations thereunder (section 381(a)(1) and Treas. Reg. § 1.381(a)-1).
- (19) Except to the extent Sub2's earnings and profits are reflected in Sub1's earnings and profits, Sub1 will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub2 as of the date of the Sub2 Conversion, and any deficit in the earnings and profits of Sub2 will be used only to offset earnings and profits accumulated after the date of the Sub2 Conversion (section 381(c)(2) and Treas. Reg. §§ 1.381(c)(2)-1, 1.1502-33(a)(2), 1.1502-80(a)(2)).

Caveats

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

Procedural Statements

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Lewis K Brickates
Branch Chief, Branch 4
Associate Chief Counsel (Corporate)